

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

APRIL 27, 2006

A regular meeting of the Commission for Human Rights was held in the agency conference room on April 27, 2006. Present at the meeting were Commissioners Iraida Williams, Camille Vella-Wilkinson and Alberto Aponte Cardona. Absent from the meeting were Commissioners Jean P. Stover, Randolph Lowman, Alton Wiley, Jr. and Dr. John B. Susa. The Acting Chairperson called the meeting to order at 9:20 a.m.

A motion to approve the March 30, 2006 regular minutes was made by Commissioner Williams. The motion was second by Commissioner Vella-Wilkinson and carried.

STATUS REPORT: MICHAEL D. ÉVORA, EXECUTIVE DIRECTOR

Mr. Évora handed out a written report. All the new information was in bold print.

A motion to give Nicholas Palazzo a certificate of recognition for years of service was made by Commissioner Williams. The motion was second by Commissioner Vella-Wilkinson and carried.

Case Production Report – Attached.

AGED Case Report – Attached.

Outreach Report – Attached.

STATUS REPORT: COMMISSIONERS

General Status: no report

Outreach: Commissioner Vella-Wilkinson attended the Annual Labor & Employment Conference. Commissioner Vella-Wilkinson reported that on May 19, 2006 at 1PM, she will be receiving her Juris Doctorate from Roger Williams University.

Commissioner Meeting -2- April 27, 2006

STATUS REPORT: LEGAL COUNSEL, Cynthia Hiatt and Francis Gaschen

Litigation: Report attached.

Legislation: Mr. Gaschen and Ms. Hiatt reported on various bills that have been introduced that might affect the Commission and/or civil rights.

Regulations: No discussion at this time.

Hearing schedule: Discussed.

Decisions: No discussion at this time.

Commissioners moved to adjourn the meeting. The motion was second and carried. The meeting adjourned at 10:20 a.m. The next scheduled meeting will be held on May 24, 2006 at 9:00 am. The June meeting will be held on June 30, 2006 at 2:00 PM.

Respectfully submitted,

Michael D. Évora
Executive Director

Notes taken by Betsy Ross
EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
APRIL 27, 2006

I. BUDGET

On September 13, 2005, the Commission submitted its annual budget request (FY 2006 Revised and FY 2007 Proposed) to the Governor. The salient details are:

	FY 2006	FY 2007	FY 2007
	(Revised)	(Request)	(Recommended)
State	1,005,908	1,058,230	1,075,216
Fed.	312,482	324,862	329,678

Total 1,318,390 1,383,092 1,404,894

The Governor's FY 2007 Recommendation, although representing an increase of \$21,802 over our request. Involves a proposed reduction of 0.6 FTE. This is part of the Governor's "reduction-in-force" initiative in an attempt to decrease state-funded staffing statewide. According to Theo Toe, Budget Analyst, and Linda Haley, House Fiscal Agent, the Commission can make a case for an amendment to the proposed reduction when it has its hearing before House Finance.

If an amendment is not made, the Commission can request an exemption from the staff reduction requirement from the Budget Office once the budget is passed. In the alternative, the Commission can attempt to identify other expenditures that can be cut in FY 2007 to make up for the proposed FTE reduction. (According to a report from Ms. Haley, the 0.6 FTE reduction is equal to \$41,669.)

II. FEDERAL CONTRACTS

EEOC – As of 3/31/06, according to EEOC Project Director Marlene Toribio, we have closed 117 co-filed cases. Our FY 2006 contract is for 367 cases.

****After decades of no change, the EEOC has voted to increase the per case reimbursement rate from \$500 to \$540!**

HUD – For FY 06, as of 4/25/06, according to HUD Project Director

Angela Lovegrove, we have taken in 43 new housing charges, 32 of which are co-filed with HUD. Within this same time period, we have processed 31 housing charges, 21 of which were co-filed with HUD.

III. PERSONNEL

Allison Cote, Sr. Compliance Officer, is out of work on full Worker's Compensation. Her return date is uncertain.

On April 14, the Commission received approval of its request to fill the Senior Compliance Officer position left vacant upon the retirement of Nicholas Palazzo. The position was posted for a week beginning April 20. The Selection Committee will review applications and schedule interviews shortly.

IV. OUTREACH – Refer to attached report.

Special Outreach Endeavors:

1. The Commission has partnered with the EEOC and RI Public Transit Authority to place bus cards on all RIPTA buses advising young workers of their right to work in discrimination/harassment free environments. The endeavor is part of EEOC's Youth@Work initiative. (See attached copy of bus card.) A press conference is scheduled for Monday, May 1, 2006, at 11:00 a.m. in the State Room of the State House. Scheduled participants are myself, EEOC Vice-Chair Naomi C. Earp, EEOC NY District Director Spencer H. Lewis, EEOC

NY State & Local Program Manager Joe Alvarado, RIPTA Marketing and Communications Director Karen Mensel and Jennifer L. Wood, Chief Legal Counsel/Chief of Staff, RI Dept. of Education.

The Commission will have an informational table at the annual RI Pride celebration on June 17, 2006, as part of an effort to increase awareness of the agency and its services among members of the LGBT community.

V. GENERAL STATUS

●Meetings with staff members – I continue to meet with individual investigative staff members on a monthly basis to monitor case production.

●Case Closures – Refer to attached report.

●Aged Cases – Refer to attached report. Progress continues to be made on decreasing the aged caseload. The Commission successfully reduced the aged caseload by 77% in FY 2005 (from 26 to 6 cases).

●Commissioner (Re)Appointments – On January 27, I forwarded to the Governor the résumés of Commissioners Susa and Wiley, conveying their desire to be reappointed. Via the same cover letter, I transmitted the résumés of former Commission employees

Nancy Kolman and Gloria Hole, both of whom have expressed interest in serving as a Commissioner.

On 2/1/06, Governor Carcieri sent a letter to the Senate seeking their advice and consent to the appointment of Commissioner Wiley to a term expiring 2/1/10.

On 4/26/06, I contacted Christine DiFilippo in the Governor's Office for a status check on the reappointment of Dr. Susa and the appointment of someone to replace Commissioner Stover. Ms. DiFilippo said that she hoped to be able to meet with the Governor on this issue next week.

●Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. That number has steadily decreased. The Commission ended FY 2004 with 602 cases in inventory. We ended FY 05 with 382 cases in inventory and, as of 4/13/06, had 417 cases in inventory.

●Mediation – The Early Intervention Mediation Program, one of my major goals for this fiscal year, has been implemented. Frank Gaschen and I have identified several newly-filed cases for targeted mediation. Letters of invitation have been sent to the parties in those cases and mediation sessions are being scheduled. Susan Gardner successfully mediated the first EIMP case on March 10.

Respectfully submitted,

Michael D. Évora
Executive Director

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: April 27, 2006

Recent developments are in bold.

American Legion Bd. of Gov's. v. American Legion #12

The Board of Governors for the respondent filed a petition for Receivership. The Commission filed a Motion for Relief from Stay of Proceedings so that the Commission and the complainants may file a Petition to Enforce the Decision and Order of the Commission in the matter of Cote, et. al v. American Legion #12. Hearing on the Motion has not been re-scheduled. The parties and the Commission may be able to agree on enforcement of the Commission decision. The Commission has been working with counsel to obtain agreement on a proposed order to appoint a receiver and sell the respondent's property.

Babbitt v. Crescent Park Manor, et al.

The Commission filed a motion to intervene as a party plaintiff in this case. Plaintiff's counsel had no objection to the motion. The motion was granted. Discovery has commenced.

Bagnall v. RICHR and WLWC et al.

The complainant has appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006.

Burrelle v. Quebecor and Ernest Masse

This is an age discrimination case filed in federal district court. Mr. Burrelle, the plaintiff in the federal court case, subpoenaed a Commission file, seeking admissions from a party. Copies were provided, with the exception of a few documents for which the Commission claimed a privilege. It is uncertain whether the plaintiff will require the testimony of a Commission recordkeeper.

Derosa, et al. v. Rossi, et al.

A motion for RICHR to intervene, as a party defendant in this appeal from a Commission Decision, was granted. Motion to dismiss the long-inactive appeal has been filed with a hearing set for March 7, 2006. A briefing schedule was set by Order of the Court. One of the appellant's counsels has requested an extension due to health issues. The Commission has not objected. The Commission's brief will be due thirty days after receipt of respondents' briefs.

Gaffney v Town of Cumberland et al

The respondent appealed the Commission decision. The parties and the Commission filed briefs. The case was assigned to Judge Savage. Judge Savage held a status conference with the attorneys,

including Commission counsel, on January 21, 2005. Judge Savage indicated that she was close to issuing a decision but wished to give the parties an opportunity to discuss resolution. The attorneys for the complainants and respondents planned to discuss the case. Another status conference was scheduled with Judge Savage on February 14, 2005; it was put on hold because

Mrs. Gaffney was out of state. After a number of settlement attempts, it did not appear that resolution was near. On 1/4/06, I wrote a letter to the parties stating that if I did not hear from them by 2/6 that the case was close to resolution, I was planning to write Justice Savage to ask her to issue her decision. Not having heard from the parties, on 2/8/06, I wrote Justice Savage and asked her to render her decision as it did not appear to me that the parties would resolve the matter.

Idowu v. Rhode Island Commission for Human Rights and Cohoes Fashions of Cranston, Inc.

The complainant has appealed the Commission Decision and Order. Copies of the administrative record have been made and the record is being assembled. The respondent has filed a motion to dismiss the appeal on the grounds that it was filed too late. Hearing on the motion is set for June 6, 2006.

Joint v. DeMarkey and Rhode Island Commission for Human Rights

The individual respondent filed an appeal of the Commission

Decision and Order. The Commission issued the decision on attorney's fees. The respondent filed an amended appeal to include its appeal of the Commission Decision on Attorney's Fees. The Commission filed the administrative record. The briefs were filed. The appeal has been assigned to Special Magistrate Joseph Keough.

King v. City of Providence Police Dept.

This is a case in which the Commission issued a decision finding that the City of Providence had denied Mr. King a position as a police officer because of his age. The Commission had not yet determined damages when the FUD's decision came down, so the Commission decision was not final and the respondent had the opportunity to have the case heard in Superior Court. The respondent elected to have the matter heard before the Superior Court. The complainant conducted a record deposition of Cynthia Hiatt on March 12. The parties have also deposed former Commission employee Nancy Kolman. Ms. Hiatt has been subpoenaed to testify at the trial. The date is not certain but it appears that it will be in May.

Laboy v. Stat Health Services

Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order.

RICHR and Rossi v. Attruia

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-29-05. Judgment entered

against Defendant. Three payments on the judgment have been made on schedule.

RICHR and Powell v. Cenada.

The respondent elected to have this housing matter resolved outside of the Commission. A notice was sent to the complainant regarding the election and he was advised of his rights and responsibilities. A copy of the file was sent to the AG. Deadline for filing suit is March 22, 2006. A reminder notice has been sent to the complainant. Suit has been filed and a copy of the complaint has been sent to the attorney for the respondents who has agreed to accept service. The Commission has agreed to extend time for the respondents to answer the complaint.

RICHR and Lovegrove v. Escolastico

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-24-05. Motions for extended time within which to serve and for special service were filed. The motions were granted. Defendant was served in Florida. Hearing scheduled for January 4, 2006 on request for default judgment. Default was entered. An Exemplified Judgment was ordered. After it is received, the plan is to find counsel in FL willing to handle a Debt on Judgment case.

RICHR and Scurry v. C & H Investments, et al.

A complaint for enforcement, together with a Request for Production

and Request for Admissions, was filed on 9-1-04. Defendants were served on 9-13-04. No answer was filed, the defendants defaulted and judgment entered. Further legal action is being taken to collect the judgment. FL counsel is filing complaint.

RICHR and Solis v. Lombardo

The respondents filed an appeal of the Commission decision that found discrimination. The respondents' appeal was dismissed for lack of action. A petition to enforce the Decision of the Commission was filed. The complainant was paid and we have negotiated resolution of the relief to the Commission. Follow-up sent to respondent's attorney regarding compliance.

RICHR and Morin v. Teofilo Silva, et al.

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-24-05. Service of the complaint will be made once respondent can be located. Motions for extended time within which to serve and for special service were filed. The motions were granted. Service has not been perfected yet.

RICHR and Zeigler v. Laura Sitrin, Finance Director of the City of Newport

The Commission found discrimination in 1988. The respondent filed an appeal but did not take action on the appeal, but the appeal was dismissed. The Petition for Enforcement was filed. The complainant was paid. All remaining issues appeared resolved in Court on 4-15-05,

and the City objected to the Order. A hearing was held on February 6, 2006, and the Court held that the City must conduct the training. Training proposed by City has been approved.

RICHR v. Starnino

Action was commenced on this file, an enforcement action of a negotiated settlement of a 1987 charge. An offer to compromise was given to the respondent. Case settled. Three of three payments have been received.

RICHR v. Warner, et al.

Election letter in this housing case was sent to complainant (Sainrelus) outlining her rights. AG declined the case. Superior Court action filed on behalf of RICHR as complainant declined to sue. Case settled. Awaiting final documentation.

Schooner Cove Homeowners Association v. Dennis Malloy and the Rhode Island Commission for Human Rights

Schooner Cove Homeowners Association, the respondent in a housing case currently scheduled for hearing before the Commission, filed an amended complaint in Superior Court which added the Commission as a defendant. Schooner Cove sought a temporary restraining order (TRO) to stop the Commission hearing scheduled for December 15. At the TRO hearing, Judge Rubine appeared disinclined to stop the Commission hearing but he did

express concerns about the Commission hearing Schooner Cove's motion to dismiss and then immediately proceeding to a hearing on the merits. The parties (including the Commission) agreed to a consent order stating that the Commission hearing would go forward on December 15 on the motion to dismiss only, that if the motion to dismiss was denied, the Commission would consult with the parties on the dates for rescheduling the hearing on the merits. The complainant, Dennis Malloy, filed a motion to dismiss the court complaint. On April 17, 2006, Judge Rubine granted the Motion to Dismiss the court complaint. Part of Judge Rubine's rationale was a reluctance to interfere with the administrative process.

Tucker v. Blue Cross

The complainant filed an administrative appeal of the Commission's finding of no probable cause. The Commission is currently seeking a stipulation on the record to be filed; two of the three attorneys have signed it and we are waiting for the third. Two reminders sent to the third attorney. The administrative record was filed in Court.

RHODE ISLAND COMMISSION FOR HUMAN RIGHTS

AGED CASE REPORT*

(EEOC FY 2003)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

11/25/02 158 9 149

12/20/02 148 9 139

1/24/03 139 9 130

2/24/03 125 9 116

3/25/03 115 9 106

4/22/03 105 9 96

5/23/03 93 9 84

6/25/03 86 9 77

7/23/03 82 9 73

8/28/03 69 9 60

9/23/03 66 9 57

9/30/03 63 9 54

***Figures reflect open cases filed between July 1, 1987 and June 30, 1998**

Aged case load reduced in EEOC FY 2003 by 63.8%

RHODE ISLAND COMMISSION FOR HUMAN RIGHTS

AGED CASE REPORT*
(EEOC FY 2004)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

10/28/03 85 12 73

11/28/03 71 12 59

12/26/03 62 12 50

**(32 investigation;
18 hearing/conciliation)**

1/28/04 54 12 42

**(27 investigation;
15 hearing/conciliation)**

2/25/04 48 12 36

**(20 investigation,
16 hearing/conciliation)**

3/19/04 44 12 32

**(18 investigation,
14 hearing/conciliation)**

4/26/04 40 12 28

**(15 investigation,
13 hearing/conciliation)**

5/26/04 39 12 27

**(15 investigation,
12 hearing/conciliation)**

6/22/04 34 9 25

**(13 investigation,
12 hearing/conciliation)**

7/9/04 28 9 19

(9 investigation,

10 hearing/conciliation)

7/28/04 28 9 19

(9 investigation,

10 hearing/conciliation)

9/23/04 16 1 15

(5 investigation,

10 hearing/conciliation)

***Figures reflect open cases filed between July 1, 1987 and June 30, 1999**

Aged case load reduced in EEOC FY 2004 by 81.2%

AGED CASE REPORT*

(EEOC FY 2005)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

10/12/04 26 2 24

(8 investigation,

16 hearing/conciliation)

11/18/04 21 2 19

(7 investigation,

12 hearing/conciliation)

12/7/04 18 2 16

**(5 investigation,
11 hearing/conciliation)**

1/7/05 17 2 15

**(5 investigation,
10 hearing/conciliation)**

2/8/05 14 1 13

**(4 investigation,
9 hearing/conciliation)**

3/4/05 13 1 12

**(3 investigation,
9 hearing/conciliation)**

4/7/05 12 1 11

**(2 investigation,
9 hearing/conciliation)**

5/6/05 11 1 10

**(1 investigation,
9 hearing/conciliation)**

6/3/05 11 1 10

**(1 investigation,
9 hearing/conciliation)**

7/5/05 7 1 6

**(0 investigation,
6 hearing/conciliation)**

8/9/05 7 1 6

(0 investigation,

6 hearing/conciliation)

9/1/05 7 1 6

(0 investigation,

6 hearing/conciliation)

9/30/05 6 1 5

(0 investigation,

5 hearing/conciliation)

***Figures reflect open cases filed on or before September 30, 2000**

Aged case load reduced in EEOC FY 2005 by 77%

AGED CASE REPORT*

(EEOC FY 2006)

DATE TOTAL CASES STAYED CASES TOTAL LESS STAYED

11/02 158

10/03 85

10/04 26

10/7/05 14 1 13

(1= investigation,

12=hearing/conciliation)

11/4/05 10 1 9

(1=investigation,

8=hearing/conciliation)

12/8/05 9 1 8

(1=investigation,

7=hearing/conciliation)

1/9/06 7 1 6

(1= investigation,
5=hearing/conciliation)

2/1/06 6 1 5

(1 = investigation,
4= hearing/conciliation)

3/2/06 6 1 5

(1 = investigation,
4=hearing/conciliation)

4/2/06 5 1 4

(1 = investigation,
3=hearing/conciliation)

5/

(investigation,
hearing/conciliation)

6/

(investigation,
hearing/conciliation)

7/

(investigation,
hearing/conciliation)

8/

(investigation,
hearing/conciliation)

9/

(investigation,

hearing/conciliation)

***Figures reflect open cases filed on or before September 30, 2001**

Aged case load reduced in EEOC FY 2006 by XX%